

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
No. 5:24-CT-03266-M-RJ

TRENTAIR BINGHAM, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 JUDGE JASON C. DISBROW, et al., )  
 )  
 Defendants. )

**ORDER**

On November 1, 2024, Trentair Bingham (“plaintiff”), a state inmate proceeding *pro se*, filed a complaint under 42 U.S.C. § 1983. See [D.E. 1].

Pursuant to an order of deficiency, Order [D.E. 3], plaintiff refiled his complaint on the forms prescribed for use by the court, Compl. [D.E. 5], and filed a motion to proceed without prepayment of fees, Mot. [D.E. 6], which the court granted on December 5, 2024, Order [D.E. 10].

On April 4, 2025, the court: found that plaintiff was subject to the three-strikes provision of the Prison Litigation Reform Act (“PLRA”) but had not plausibly alleged he is in imminent danger of suffering serious physical injury; revoked the order allowing him to proceed without prepayment of fees; and warned plaintiff that, if he failed to pay the full filing fee, the court would dismiss the action without prejudice under 28 U.S.C. § 1915(g). See Order [D.E. 12].

On April 16, 2025, plaintiff filed a letter in response. See [D.E. 13] (noting he is unable to pay the full filing fee and intends to refile the action upon release, and requesting reimbursement of the approximately \$100.00 in filing fees already collected from his prison account in this action).

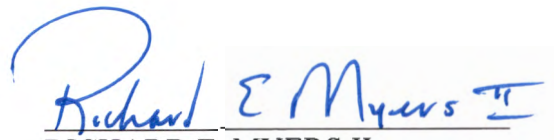
The Clerk’s Office has confirmed that, as of April 16, 2025, \$90.00 have been collected from plaintiff’s prison account in this action.

Because plaintiff declines to pay the full filing fee as required by the court's prior order, the court DISMISSES WITHOUT PREJUDICE the action under 28 U.S.C. § 1915(g).

Additionally, because the court revoked the December 5, 2024, order allowing plaintiff to proceed without prepayment of fees, he does not proceed *in forma pauperis* such that filing fees may not be collected from his prison account under 28 U.S.C. § 1915(b). See Meyers v. Birdsong, 83 F.4th 1157, 1161 (9th Cir. 2023) (holding, when a prisoner's motion to proceed without prepayment of fees is denied under § 1915(g), "§ 1915(b) neither permits nor requires the collection of fees"); Smith v. Dist. of Columbia, 182 F.3d 25, 29–30 (D.C. Cir. 1999) (holding a prisoner was not required to pay filing fee out of his prison account when his *in forma pauperis* status was denied under 28 U.S.C. § 1915(g)); see also Lettieri v. Harrington, No. 24-CV-4644 (HG) (MMH), 2024 WL 3328609, at \*2 (E.D.N.Y. July 8, 2024).

Accordingly, the court further DIRECTS the clerk to refund to plaintiff's prison account all filing fees already paid and any additional fee payments that may be received in this action. The clerk shall close the case.

SO ORDERED this 25<sup>th</sup> day of April, 2025.

  
RICHARD E. MYERS II  
Chief United States District Judge